

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

BASF CATALYSTS LLC,

Plaintiff,

V.

UNITED STATES OF AMERICA, et al.,

Defendants.

Civil Action No. 05-11241-JLT

(Electronic filing)

JOINT MOTION FOR STAY

Plaintiff BASF Catalysts LLC and Defendants (collectively “United States”) hereby
move jointly for a temporary stay of this case, and state the following in support of their motion:

1. On March 26, 2007, the Court granted the United States’ motion for summary judgment regarding BASF’s Fourth Cause of Action, which was a claim for contribution pursuant to Section 113(f)(3)(B), 42 U.S.C. § 9613(f)(3)(B). Thus, the remaining claims contained in BASF’s Complaint include: (a) claims for cost recovery and contribution under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a) (First and Second Causes of Action); (b) a claim for contribution under federal common law (Third Cause of Action); and (c) a claim alleging an imminent and substantial endangerment under Section 7002(a)(1)(B) of the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6972(a)(1)(B) (Fifth Cause of Action). BASF also seeks declaratory relief under the Declaratory Judgment Act, 28 U.S.C. § 2201.

2. By an order dated August 9, 2006, Court denied without prejudice a motion by the United States that sought dismissal of each of those remaining claims pursuant to Fed. R. Civ. P. 12(b)(6) and 12(b)(1). See Dkt. No. 30. In denying the United States' motion to dismiss,

the Court stated that the United States could renew its motion after the Court's resolution of the parties' then-pending motions regarding BASF's Fourth Cause of Action. Id.

3. The parties believe that the merit and/or value of the remaining claims in BASF's Complaint may be influenced significantly by United States v. Atlantic Research Corporation, a case currently pending before the U.S. Supreme Court. The Supreme Court heard argument in Atlantic Research on April 23, 2007, and the parties expect the Court to decide that case before the end of the current Supreme Court Term, i.e., by late June or early July of this year. Accordingly, the parties believe that the fair and efficient resolution of the remaining claims in this case should await the Supreme Court's decision and issuance of the mandate in Atlantic Research.

4. Within 45 days after the Supreme Court issues the mandate in Atlantic Research, the parties shall contact the Court to schedule a status conference in this case, at which the Court and the parties will address scheduling for remaining proceedings in this case.

WHEREFORE, the Court should stay proceedings in this case, and order the parties — within 45 days after the Supreme Court issues its mandate in Atlantic Research — to contact the Court to schedule a status conference in this case.

SO ORDERED this _____ day of May 2007.

The Honorable Joseph L. Tauro
UNITED STATES DISTRICT JUDGE

Respectfully submitted,

FOR BASF CATALYSTS, LLC:

Dated: May 2, 2007

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CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of May, 2007, I served a true and correct copy of the foregoing "Joint Motion," on the following counsel of record, by ECF filing, as follows:

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